

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Grace Perry	Team: Team # 6	CCRB Case #: 201308184	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/31/2013 12:49 AM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 1/31/2015	EO SOL 1/31/2015	
Date/Time CV Reported Wed, 07/31/2013 12:49 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/04/2013 4:13 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Miguel Figueroa	03780	939822	PSA 1
2. POM Joshua Konen	00966	936882	PSA 1
3. POM Vincent Lindner	27944	945921	PSA 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Scot Kashinsky	21885	947120	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.SGT Miguel Figueroa	Force: Sgt. Miguel Figueroa hit § 87(2)(b) against a vehicle in front of [REDACTED]	[REDACTED]
B.SGT Miguel Figueroa	Discourtesy: Sgt. Miguel Figueroa spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of [REDACTED] and en route to PSA 1.	[REDACTED]
C.POM Vincent Lindner	Discourtesy: PO Vincent Lindner spoke discourteously to § 87(2)(b) in front of [REDACTED]	[REDACTED]
D.POM Joshua Konen	Discourtesy: PO Joshua Konen spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of [REDACTED]	[REDACTED]
E.SGT Miguel Figueroa	Force: Sgt. Miguel Figueroa used physical force against § 87(2)(b) in front of [REDACTED]	[REDACTED]
F.POM Vincent Lindner	Force: PO Vincent Lindner used physical force against § 87(2)(b) in front of [REDACTED]	[REDACTED]
G.POM Vincent Lindner	Force: PO Vincent Lindner tightly handcuffed § 87(2)(b) at [REDACTED] Hospital.	[REDACTED]

### Case Summary

On July 31, 2013, § 87(2)(b) filed this complaint with IAB (encl. 4A-D). On September 4, 2013, the CCRB received this complaint via IAB log #2013-33744 (encl. 5A-B).

On July, 31, 2013, § 87(2)(b) was stopped and subsequently arrested by Sgt. Miguel Figueroa, PO Joshua Konen and PO Vincent Lindner of Housing PSA 1. The following allegations resulted from this incident:

- **Allegation A—Force: Sgt. Miguel Figueroa hit § 87(2)(b) against a vehicle in front of § 87(2)(g)**
- **Allegation B—Discourtesy: Sgt. Miguel Figueroa spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) and en route to PSA 1.**
- **Allegation C—Discourtesy: PO Vincent Lindner spoke discourteously to § 87(2)(b) in front of § 87(2)(b)**
- **Allegation D—Discourtesy: PO Joshua Konen spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(g)**
- **Allegation E—Force: Sgt. Miguel Figueroa used physical force against § 87(2)(b) in front of § 87(2)(b)**
- **Allegation F—Force: PO Vincent Lindner used physical force against § 87(2)(b) in front of § 87(2)(g)**
- **Allegation G—Force: PO Vincent Lindner tightly handcuffed § 87(2)(b) at § 87(2)(g) Hospital.. § 87(2)(g)**

As § 87(2)(b) was arrested during this incident, this case was not suitable for mediation.

### Results of Investigation

#### Civilian Statements

**Victim:** § 87(2)(b)

§ 87(2)(b) years old at the time of incident, is a black male who stands 5'9", weighs 175lbs, with black hair and brown eyes. He is married to § 87(2)(b)

#### Statements to Medical Personnel

§ 87(2)(b)'s chief complaint to EMTs was, "They buss up my face." He stated he was urinating in the street and he was arrested. An officer slammed his face into a car window.

§ 87(2)(b) informed medical staff at § 87(2)(b) Hospital that he was hit against a window.

### CCRB Testimony

On September 20, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 6A-G).

On July 31, 2013, at approximately 12:37 a.m., § 87(2)(b) and his wife, § 87(2)(b) double parked outside of Footprints Cafe at § 87(2)(b) in Brooklyn. They had just come from a barbecue at § 87(2)(b). They did not stop anywhere along the way. § 87(2)(b) had consumed two bottles of Heineken. He had not consumed any marijuana. § 87(2)(b) went in to see if there was space for two people, and there was. He went back outside to tell § 87(2)(b) there was space. § 87(2)(b) stood between two parallel parked cars on Surf Avenue, in front of Footprints, and urinated in the road. § 87(2)(b) was approached by what the investigation determined to be three officers: Sgt. Miguel Figueroa, PO Vincent Lindner and PO Joshua Konen, all of Housing PSA 1. § 87(2)(b) knew they had seen him urinating in the street and intended to take the ticket he assumed they were giving him. Sgt. Figueroa told § 87(2)(b) to put his hands behind his back, and he did after being asked only once. The officers came from a car and a van, neither of which § 87(2)(b) could describe and neither of which had lights or sirens when he first approached.

PO Konen approached from behind and searched § 87(2)(b)'s pockets and removed a small clear plastic bag from § 87(2)(b)'s front pants pocket. After removing the bag of marijuana, PO Konen told the officers he found something and then handcuffed § 87(2)(b). At this time, § 87(2)(b) was inside the car, which was still double parked. At no point before § 87(2)(b) was handcuffed did any officer hit § 87(2)(b).

After § 87(2)(b) was handcuffed, Sgt. Figueroa grabbed his hair (dread locks) from behind and slammed his head into the back windshield of one of the parallel parked vehicles he had been urinating in-between. His forehead made contact with the car and the back windshield completely shattered. He only hit his head once, and as he did so, Sgt. Figueroa asked § 87(2)(b) why he was resisting. § 87(2)(b) denied resisting arrest, given that he was stuck between two parked cars and surrounded by officers. Sgt. Figueroa, PO Lindner and PO Konen all told § 87(2)(b) to "Shut the fuck up." § 87(2)(b) started bleeding from his forehead, immediately. Sgt. Figueroa and PO Lindner then punched § 87(2)(b) (with closed fists) on the left and right sides of his ribs as he was being escorted over to the police vehicle. He was in-between one of the parked cars and § 87(2)(b)'s double-parked car. Sgt. Figueroa and PO Lindner each punched § 87(2)(b) three times. Sgt. Figueroa was on § 87(2)(b)'s left side, and PO Lindner was on § 87(2)(b)'s right. They did not make any comments as they punched § 87(2)(b). PO Konen was behind § 87(2)(b) when he was being punched. § 87(2)(b) could not describe what kind of car he was escorted to the precinct in. He could not see very well, as the blood coming from his forehead was getting in his eyes. § 87(2)(b) stated he did not hit any of the officers, as he was handcuffed while he was being hit. § 87(2)(b) was placed in the officers' vehicle approximately 20 minutes after he had been stopped. Sgt. Figueroa drove the vehicle § 87(2)(b) was transported to a housing precinct.

When § 87(2)(b) was at the precinct, an officer instructed the officers to take § 87(2)(b) to the hospital. Sgt. Figueroa took § 87(2)(b)'s fingerprints and then PO Lindner took him to § 87(2)(b) Hospital. He was transported in an ambulance that came to the precinct. There, two detectives from Internal Affairs came. He spoke privately with those two detectives (a white male and a black female) as his left hand was handcuffed to his hospital bed. After they left, PO Lindner entered the room and asked § 87(2)(b) what he spoke to IAB about. § 87(2)(b) refused to tell him. PO Lindner came over to § 87(2)(b)'s bed and tightened his handcuffs. § 87(2)(b) asked him to loosen the handcuffs, and PO Lindner refused. Nobody else was in the room when PO Lindner tightened the handcuffs. § 87(2)(b) got stitches in his forehead during this

hospital visit. § 87(2)(b) was not treated for the punches on his sides at all. He was then taken back to the precinct, and the next day was at Central Booking from 10:00 a.m. until 6:00 p.m.

**Complainant/Victim:** § 87(2)(b)

§ 87(2)(b) years old at the time of incident, is a black female with brown hair and brown eyes who did not provide any additional pedigree information. She is married to § 87(2)(b)

**CCRB Testimony**

On September 20, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 7A-F).

At approximately 12:37 a.m. on July 31, 2013, § 87(2)(b) was double-parked outside of § 87(2)(b), at § 87(2)(b) in Brooklyn. She and her husband, § 87(2)(b) had just come from the other § 87(2)(b) at § 87(2)(b) in Brooklyn, where they had been unable to be seated. § 87(2)(b) went inside the § 87(2)(b) on § 87(2)(b) for less than one minute to see if there was available seating. He came outside and told § 87(2)(b) that they could be seated. She saw a parking spot about three spots back and began to reverse as § 87(2)(b) waited at the sidewalk. When she had reversed about half a car length, she observed an unmarked, dark, four-door sedan approaching hers, going the opposite way in the lane, lights on but no sirens. The vehicle parked facing hers. Two officers, identified via investigation as Sgt. Figueroa and PO Lindner, exited the vehicle and approached § 87(2)(b) remained in the vehicle at this time. She heard an officer say, “What are you doing,” and § 87(2)(b) said, “I’ll pay the ticket,” but could not completely hear. § 87(2)(b) did not see § 87(2)(b) urinate at all, but she saw liquid on the ground where he had been standing and guessed that he did so.

§ 87(2)(b) was standing to the right of § 87(2)(b)’s vehicle, between two parked vehicles. An officer took § 87(2)(b)’s arms, pulled them behind his back, and bent him over, face forward (his right cheek on the car) onto the back windshield of a parked green sedan (belonging to § 87(2)(b)). She believed Sgt. Figueroa had § 87(2)(b) pinned. PO Lindner approached § 87(2)(b)’s window. § 87(2)(b) asked him what was happening and if § 87(2)(b) was being arrested. The officer searched § 87(2)(b)’s left pocket; nothing was removed. An officer shouted, “Resisting arrest, resisting arrest,” and PO Lindner ran around § 87(2)(b)’s vehicle to where § 87(2)(b) was still pinned to the back windshield of § 87(2)(b)’s vehicle. PO Lindner was holding onto § 87(2)(b)’s arms. PO Lindner ran up to § 87(2)(b)’s left side and twice punched him on the left side of his face with a closed fist. From where § 87(2)(b) sat, it looked like he made contact with § 87(2)(b)’s face, though she was uncertain. The punches caused the glass of the rear windshield to break. A second police van arrived on the scene at some point. § 87(2)(b) stated § 87(2)(b) was doing nothing to resist arrest.

§ 87(2)(b) exited the vehicle and continued to ask officers what was happening and why they were hitting § 87(2)(b). She was asking all the officers for a name and badge number, to which no officer responded. § 87(2)(b)’s face was covered in blood. § 87(2)(b) “went flat” and stopped moving, and § 87(2)(b) told him to calm down because she knew he stopped moving in response to the blood. PO Lindner and PO Konen escorted § 87(2)(b) to their car. PO Konen pushed § 87(2)(b) three or four times in his waist as he was being escorted to the vehicle. PO Konen repeatedly told § 87(2)(b) to, “Back the fuck up” approximately three times, which she did. § 87(2)(b) was placed in the back seat of the unmarked sedan and they drove away.

§ 87(2)(b) got inside her car and drove after the unmarked car, and the van drove behind her. She wanted to know where they were taking § 87(2)(b). She drove through two or three red lights, pursuing the unmarked vehicle. After the second or third light, the van drove up to her right and attempted to veer her off the road, driving into her lane, and then in front of her. § 87(2)(b) stopped driving in the middle of the street, as did the van. PO Kashinsky, Sgt. Figueroa

and a third officer exited the van. Sgt. Figueroa approached § 87(2)(b)'s vehicle and told her, "Do you know how many laws you just broke? We can write you up and give you a ticket." § 87(2)(b) continued to ask where § 87(2)(b) was being taken. § 87(2)(b) exited her vehicle and Sgt. Figueroa told her to "Get back in the fucking car" twice, and to "Go the fuck home." She tried to give the officers her keys, and Sgt. Figueroa waved his hand to the ground, motioning, "forget about it." Sgt. Figueroa went back in the van. PO Kashinsky told § 87(2)(b) he was "Officer Scott," and gave her his badge number #21885—§ 87(2)(b) wrote this in her phone). § 87(2)(b) went back to Footprints and spoke with § 87(2)(b) the owner of the vehicle. She saw the glass of § 87(2)(b)'s window smashed all over the ground, blood on the car and on the ground. There were no officers on scene, so § 87(2)(b) called 911. § 87(2)(b) was there with § 87(2)(b) until approximately 3:00 a.m., when she spoke with IAB investigators about the incident.

**Complainant:** § 87(2)(b)

On April 4, 2014, § 87(2)(b) provided a telephone statement to the CCRB (encl. 8A). § 87(2)(b) was dining at § 87(2)(b) when a waitress asked the restaurant if anybody owned a blue Kia parked outside, because it was broken into. § 87(2)(b) said she did, and went outside. There, she saw a woman (identified via investigation as § 87(2)(b)). No officers were present. § 87(2)(b) stated her back windshield was completely shattered and there was blood on the back of the car, splattered on the seats, and all over the ground. § 87(2)(b) told § 87(2)(b) that five to six police officers had come and arrested him. They were shouting, "Stop resisting, stop resisting." Then an officer ran over and smashed § 87(2)(b)'s head into the windshield. § 87(2)(b) did not witness any of this, only heard of it second-hand. § 87(2)(b) stated her friend, § 87(2)(b) who is a waitress at § 87(2)(b), witnessed the incident. She provided § 87(2)(b)'s phone number, § 87(2)(b)'s vehicle (at the time--she no longer owns it) was a green 2000 Kia, NY plates # § 87(2)(b). She had no photos of the broken windshield.

**Attempts to Contact Civilians**

During her telephone statement, § 87(2)(b) provided a telephone number for § 87(2)(b) who witnessed this incident. On April 4, 2014, the undersigned left a voicemail for § 87(2)(b) at the number provided. That same day, the investigation conducted a 411 search, which yielded too many results to know who was the § 87(2)(b) that § 87(2)(b) knew. On April 9, 2014 and May 9, 2014, the investigation called § 87(2)(b) two additional times. The first, a female answered and then the phone cut out. The second time, the undersigned left another voicemail. As of November 20, 2014, § 87(2)(b) has not responded to any of these contact attempts.

**NYPD Statements**

**Subject Officer: SGT. MIGUEL FIGUEROA**

- *Sgt. Figueroa, § 87(2)(b) years old at the time of incident, is a Hispanic male who stands 5'6", weighs 195lbs, with black hair and brown eyes.*
- *Sgt. Figueroa worked from 5:55 p.m. on July 30, 2013 until 10:09 a.m. the following day. He was the Anti-Crime Supervisor with PO Joshua Konen and PO Vincent Lindner. Sgt. Figueroa was in plainclothes and assigned to a black unmarked vehicle, number 1618.*

**Memo Book** (encl. 9A-D)

At 12:30 a.m. on July 31, 2013, Sgt. Figueroa stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn. At 12:37 a.m., PO Lindner placed § 87(2)(b) under arrest for urinating in public, not having identification, resisting arrest by refusing to be handcuffed, and attempting to tamper with evidence.

### **CCRB Testimony**

On October 1, 2014, Sgt. Figueroa was interviewed at the CCRB (encl. 10A-B).

At approximately 12:30 a.m. on July 31, 2013 Sgt. Figueroa was riding in an unmarked black police car on § 87(2)(b), in Brooklyn. Sgt. Figueroa was seated in the rear of the vehicle, while PO Lindner was driving and PO Konen was in the front passenger seat. Sgt. Figueroa and the other officers observed a man, § 87(2)(b) urinating in between two parked cars on the opposite side of § 87(2)(b). Sgt. Figueroa did not recall which of the officers first caught sight of this man. PO Lindner stopped the car and all three officers exited. Sgt. Figueroa did not recall if the officers discussed how they would proceed in this situation. However, he intended to stop the man and issue him a summons for urinating in public. Sgt. Figueroa approached § 87(2)(b) from the sidewalk, while PO Konen walked towards him from the street. Sgt. Figueroa did not recall where PO Lindner was at this time. Sgt. Figueroa identified himself as a police officer and asked § 87(2)(b) for his identification multiple times. § 87(2)(b) told Sgt. Figueroa that he did not have any identification. Sgt. Figueroa believed that § 87(2)(b) was intoxicated as his eyes were bloodshot and he smelled of alcohol.

As § 87(2)(b) did not have any identification and Sgt. Figueroa decided that he would be placed under arrest, because he could not be issued a summons under these circumstances. Sgt. Figueroa also observed a small bag of marijuana sticking out of § 87(2)(b)'s pants pocket. § 87(2)(b) reached for his pocket and appeared to throw an object out. However, Sgt. Figueroa could not identify the item that he had thrown.

Sgt. Figueroa told § 87(2)(b) that he was under arrest and instructed him to place his hands behind his back. § 87(2)(b) did not comply with this command and PO Konen grabbed his hands. § 87(2)(b) pulled away from the officers and pushed their hands to prevent them from handcuffing him. § 87(2)(b) also attempted to run away from the officers and got to the side of the parked vehicle, a few feet closer to the sidewalk. After approximately ten seconds, PO Lindner ran towards Sgt. Figueroa, PO Konen, and § 87(2)(b) to assist in the arrest. PO Lindner collided with § 87(2)(b) and they crashed into a parked car, causing the rear windshield to shatter. Sgt. Figueroa did not see this collision and he did not know what part of § 87(2)(b)'s body went through the glass. However, Sgt. Figueroa later observed multiple lacerations on § 87(2)(b)'s forehead.

The officers handcuffed § 87(2)(b) within seconds of the windshield breaking. Once in handcuffs, § 87(2)(b) tried to prevent the officers from placing him in their vehicle by pushing them with his shoulders and arms. Sgt. Figueroa and the other officers overcame this resistance by pushing § 87(2)(b)'s legs into the car. § 87(2)(b) did not see any officers punch § 87(2)(b) or pull his hair during this struggle. Neither Sgt. Figueroa nor any of the other officers told § 87(2)(b) to "shut the fuck up." A group of people gathered around the officers and § 87(2)(b) during the confrontation. Sgt. Figueroa did not recall how many individuals were present or what actions they took. Sgt. Figueroa did not tell these civilians to "back the fuck up" and he did not hear any other officer make this comment. Sgt. Figueroa did not hear anyone from this crowd ask the officers for their names or shield numbers. Sgt. Figueroa did not recall interacting with § 87(2)(b)'s wife. He did not recognize her when shown her picture.

Once § 87(2)(b) was inside the vehicle, the officers transported him to the PSA1 stationhouse. Sgt. Figueroa did not recall if he called for support or if any additional officers

arrived on the scene. Sgt. Figueroa called an ambulance for the lacerations § 87(2)(b) had received on his forehead. § 87(2)(b) later went to the hospital, though Sgt. Figueroa did not recall which officer took him there. Sgt. Figueroa went to the hospital as well because he had strained his back while arresting § 87(2)(b).

**Subject Officer: PO VINCENT LINDNER**

- PO Lindner, § 87(2)(b) years old at the time of incident, is a white male who stands 6'0", weighs 230lbs, with brown hair and brown eyes.
- PO Lindner worked a 6:00 p.m. to 2:35 a.m. tour, but his actual end of tour was 7:00 a.m. PO Lindner was working with Sgt. Figueroa and PO Konen in unmarked RMP #9609, which is a dark four-door sedan, assigned to Anti-Crime in the West End, which is the 60<sup>th</sup> and 61<sup>st</sup> Precincts. PO Lindner was operator, Sgt. Figueroa was in the right rear, and PO Konen was recorder.

**Memo Book** (encl. 11A-D)

PO Lindner indicated in his memo book that at 12:30 a.m. he stopped one male black in front of § 87(2)(b) (identified as § 87(2)(b)). This male was identified as § 87(2)(b) R. § 87(2)(b) of § 87(2)(b) #2 in Brooklyn, DOB: § 87(2)(b). At 12:37 a.m. PO Lindner indicated § 87(2)(b) one under, Sgt. Figueroa on scene. At 12:40 a.m. he returned to PSA 1, and at 2:00 a.m. paperwork was completed, and \$145 of U.S. currency was vouchered along with a bag of marijuana.

**CCRB Testimony**

On October 16, 2014, PO Lindner was interviewed at the CCRB (encl. 12A-B).

At approximately 12:30 a.m. on July 31, 2013, PO Lindner and his colleagues were performing routine patrol on Coney Island, driving westbound along § 87(2)(b) approaching § 87(2)(b). PO Lindner observed a man he would later identify as § 87(2)(b) standing on the sidewalk urinating, visible between two parked cars. PO Lindner observed the stream of urine emanating out of him, as he was facing the street approximately five yards from the RMP; he believed that the other officers observed this. PO Lindner stopped the RMP and all the officers exited and approached § 87(2)(b).

PO Lindner displayed his shield and identified himself as the police. § 87(2)(b) was highly intoxicated, could not stand straight, and had a strong odor of liquor. PO Lindner asked § 87(2)(b) s name, but he did not provide this. PO Lindner asked for § 87(2)(b) s pedigree and identification approximately twice, but § 87(2)(b) declined to answer. At this point, PO Lindner observed a clear bag of a green leafy substance hanging out of § 87(2)(b) s right front pants pocket, which PO Lindner identified as marijuana. PO Lindner has made numerous marijuana arrests in the vicinity of the incident location. The entire marijuana portion of the bag was hanging out of the pocket.

As § 87(2)(b) was intoxicated and had no identification, and thus could not receive a summons, he was to be placed under arrest. PO Lindner instructed § 87(2)(b) to turn around and put his hands behind his back, and § 87(2)(b) did so with no resistance. Up until this point, § 87(2)(b) had not acted violent in any way. PO Konen began to cuff § 87(2)(b) s right wrist, when all of a sudden § 87(2)(b) flailed his arms violently and pushed, and shook his head back and forth while screaming to evade arrest. The officers attempted to gain control of § 87(2)(b) s arms, and he continued to spit and scream. PO Lindner took § 87(2)(b) s left hand and PO Konen took his right hand, and after a few seconds of struggle § 87(2)(b) was apprehended.

Though the handcuffs were on him, § 87(2)(b) continued whipping his dreads at and spitting all over the officers.

At no point did PO Lindner punch § 87(2)(b) or shove him against a vehicle, nor did PO Konen or Sgt. Figueroa do either of these things. PO Lindner did not push § 87(2)(b) against a car's back windshield, though he did recall a car's back windshield being broken on scene. PO Lindner remembered hearing the window break, but could not recall how this happened. PO Lindner had seen no damage on this window before the incident, and did not know the make and model of the car. PO Lindner never hit the windshield with his own body, nor did his partners do so. PO Lindner denied that § 87(2)(b)'s head ever had contact with the windshield or any part of the car.

Approximately ten people had come out of the bar Footprints, and Sgt. Figueroa was watching the crowd to ensure they did not intervene. On scene, PO Lindner had no interaction with anyone who stated they were § 87(2)(b)'s wife. PO Lindner never said, "Shut the fuck up," to any civilian, nor "Back in the fucking car," "Go the fuck home," or any other profanity, nor did his partners say such things. As soon as Sgt. Figueroa noticed the struggle was ongoing, he went over to assist, but by the time he walked over PO Konen and PO Lindner had successfully cuffed § 87(2)(b). PO Lindner now noticed a laceration on the top of § 87(2)(b)'s head, which he did not know the cause of. PO Lindner also removed the marijuana from § 87(2)(b)'s pocket. As § 87(2)(b) was injured, PO Lindner wanted to get the team out of the location, and to get § 87(2)(b) medical care. PO Konen and PO Lindner walked § 87(2)(b) to the car, and he continued to resist being placed in the car, by pushing back, shrugging his shoulders, and "spinning his thick long dreads" at the officers. PO Lindner placed his hand on § 87(2)(b)'s head and pushed him into the car; no additional force was used to get him into the car.

§ 87(2)(b) was rushed in the RMP to PSA 1, and PO Lindner called for medication attention over division radio due to the laceration on § 87(2)(b)'s head. In the holding cell, § 87(2)(b) was apologetic, and said he had fought back because he had marijuana and did not want to get arrested. PO Lindner did not accompany § 87(2)(b) in the ambulance; PO Kashinsky did so instead. At no point did PO Lindner retighten § 87(2)(b)'s handcuffs after he had already put them on.

**Subject Officer: PO JOSHUA KONEN**

- PO Konen, § 87(2)(b) years old at the time of incident, is a white male who stands 5'11", weighs 220lbs, with blonde hair and blue eyes.
- On July 30, 2013, PO Konen worked 6:00 p.m. to 2:35 a.m. the following day. He was assigned to anti-crime and worked with Sgt. Figueroa and PO Lindner.

**Memo Book** (encl. 13A-C)

At 12:30 a.m., PO Konen noted one male stopped for urinating in public at § 87(2)(b). At 12:37 a.m., he noted one under.

**CCRB Testimony**

PO Konen was interviewed at the CCRB on October 1, 2014 (encl. 14A-B).

At around 12:30 a.m. on July 31, 2013, PO Konen, PO Lindner, and Sgt. Figueroa were heading eastbound on § 87(2)(b) in Brooklyn in an unmarked black Crown Victoria (#§ 87(2)(b)). One of the other officers, though PO Konen did not recall which one, alerted him to a male urinating on the left side of the street between two cars parked outside of § 87(2)(b). PO Konen, who was driving, immediately made a U-turn, parked the car, and all three officers exited. As he was focused on § 87(2)(b), PO Konen did not notice any other civilians.



As PO Konen approached on foot, § 87(2)(b) finished urinating and zipped up his pants. PO Konen stood on the street side while Sgt. Figueroa stood on the sidewalk, though PO Konen did not see where PO Lindner was. Regardless, as § 87(2)(b) was unsteady on his feet, PO Konen immediately believed him to be intoxicated. Furthermore, due to the tightness of § 87(2)(b)'s pants, a clear ziplock sandwich bag of marijuana was squeezed upwards so that it protruded out his right front pant pocket. Having made hundreds of arrests for marijuana in the past, PO Konen knew that that was the substance in the bag.

PO Konen did not recall whether he or any other officer requested § 87(2)(b)'s identification or when the identification was ultimately obtained. Regardless, having made the observation of marijuana and the urination, PO Konen determined that he would be arrested. As such, he notified § 87(2)(b) of his arrest and requested for him to turn around and put his hands behind his back. Initially, § 87(2)(b) was fully compliant, turning around and placing his hands behind his back and allowing PO Konen to hold them together. However, when PO Konen reached for his handcuffs, § 87(2)(b) pulled his arms away and flailed them. Furthermore, he reached across his body, put his hand into the pocket with the marijuana, grabbed a rolling leaf, and threw it to the ground. PO Konen suspected that he intended to get rid of the actual marijuana.

In order to gain leverage and prevent § 87(2)(b) from moving any further, PO Konen placed his left leg between § 87(2)(b)'s legs and pressed against the bumper of the parked car. PO Konen then grabbed his right wrist, at which point he heard the car's rear windshield break, though he did not know what caused it to break. PO Konen did not know if § 87(2)(b) or anyone else ever made contact with the windshield, but he denied ever grabbing § 87(2)(b)'s hair or head and slamming it into any part of the vehicle, including the windshield. PO Konen did not see any other officer do so either. At the time, Sgt. Figueroa was likely behind them, but PO Konen did not know his position.

At that point, PO Konen saw PO Lindner grab § 87(2)(b)'s left arm and shoulder from behind, forcing him down onto the trunk of the car. The officers immediately brought his arms together and secured the handcuffs. When they lifted § 87(2)(b) upright, PO Konen saw that the top side of his head was bleeding, though PO Konen did not know what caused that injury. At no point did PO Konen punch § 87(2)(b) in the face or the ribs, nor did he see any other officer do so. PO Konen did not recall ever making contact with § 87(2)(b)'s head or face, and apart from the above, no additional physical force was used. PO Konen did not recall ever telling or hearing any other officer tell § 87(2)(b) to "shut the fuck up."

Although he was aware that § 87(2)(b)'s wife was present at the time of the incident, PO Konen did not interact with her or any other civilians, nor did he see any other officers do so. He did not tell or hear any other officer tell § 87(2)(b) to "back the fuck up;" he did not hear any civilian request his name or shield number; and he did not speak to the owner of the car whose window was broken. PO Konen was almost certain that he removed the marijuana from § 87(2)(b)'s pocket and escorted him to a police car, during which time § 87(2)(b) continued to shift his body and exert muscular resistance. As a result, PO Konen forced § 87(2)(b)'s body into a sitting position in the back seat, though he refused to lift his feet up. PO Konen instructed him get all the way in, but he did not recall whether § 87(2)(b) complied or if one of the officers had to lift up his feet. § 87(2)(b) may have been speaking throughout, but PO Konen did not recall any specific statements.

Although PO Konen did not recall which car he was placed in, § 87(2)(b) was then transported back to PSA where he was processed and emergency medical services were called for his injuries. PO Konen, who did not transport him, drove his vehicle directly back to the stationhouse without stopping. EMS arrived and transported § 87(2)(b) to a hospital.

**Witness Officer: PO SCOT KASHINSKY**

- *PO Kashinsky, [REDACTED] years old at the time of the incident, is a white male who stands 5'11" tall, weighs 220lbs, with blonde hair and blue eyes.*
- *PO Kashinsky worked from 6:00 p.m. on July 30, 2014 to 6:15 a.m. on July 31, 2014 and was dressed in plainclothes. He was assigned to an anti-crime team and partnered with PO Mucharello and PO Sheppard. They were assigned to unmarked van # [REDACTED]*

**Memo Book** (encl. 15A-C)

At 12:30 a.m. PO Kashinsky received a call for backup at [REDACTED]. At 12:36 a.m., one under by PO Lindner. At 1:00 a.m., PO Kashinsky went on administrative duty. At 1:35 a.m., PO Kashinsky was 10-61 to [REDACTED] Hospital to guard perp § 87(2)(b) [REDACTED] suffered laceration to his face. At 5:50 a.m., PO Kashinsky was relieved by PO Lindner. § 87(2)(b) [REDACTED] received two stitches to his forehead ([REDACTED]). At 6:00 a.m., PO Kashinsky returned to the stationhouse and he ended his tour at 6:15 a.m.

**CCRB Statement**

PO Kashinsky was interviewed at the CCRB on October 16, 2014 (encl. 16A-B).

At approximately 12:30 a.m. on July 31, 2013, PO Kashinsky was in the backseat of van # [REDACTED] with PO Mucharello and PO Sheppard. As the van proceeded down [REDACTED], in Brooklyn, PO Kashinsky observed an unmarked car with police lights flashing in front of him. When they pulled up, PO Kashinsky observed Sgt. Figueroa, PO Lindner and PO Konen at the scene. Sgt. Figueroa is PO Kashinsky's supervisor and PO Lindner and PO Konen were part of the same anti-crime team. At least two of Sgt. Figueroa, PO Lindner, and PO Konen were walking § 87(2)(b) [REDACTED] who was already in handcuffs, from the rear of the unmarked vehicle towards to the back door. PO Kashinsky did not recall specifically what § 87(2)(b) [REDACTED] was doing with his body while he was being escorted to the door, but he noted that § 87(2)(b) [REDACTED] was not resisting.

PO Kashinsky, PO Mucharello and PO Sheppard exited their vehicle and approached the other officers to see if the situation was under control. After confirming that everything was secure, PO Kashinsky helped place § 87(2)(b) [REDACTED] in the back of the unmarked vehicle. PO Kashinsky did not receive any information from Sgt. Figueroa regarding why § 87(2)(b) [REDACTED] was under arrest. Sgt. Figueroa just instructed PO Kashinsky to meet him back at the stationhouse.

PO Kashinsky observed a laceration to § 87(2)(b) [REDACTED]'s forehead, from which he was bleeding, but he did not recall how § 87(2)(b) [REDACTED] sustained that injury. PO Kashinsky may have learned how § 87(2)(b) [REDACTED] sustained his injury while at the scene, but he did not recall this during his interview. PO Kashinsky did not observe any officer strike § 87(2)(b) [REDACTED] or punch him in the ribs or head as they were placing him in their vehicle. PO Kashinsky did not observe any officers grab § 87(2)(b) [REDACTED]'s head at any point. PO Kashinsky did not observe any officers grab § 87(2)(b) [REDACTED] by his dreadlocks or slam § 87(2)(b) [REDACTED]'s head into the back of a vehicle.

PO Kashinsky also observed civilians standing on the sidewalk around the scene, but he did not recall interacting with any of them or conducting any crowd control while he was on scene. PO Kashinsky denied ordering any civilians to "back the fuck up," and he denied using any profanity at the scene. PO Kashinsky did not observe any civilians vehicles with broken windows on the scene. PO Kashinsky reviewed a photograph of § 87(2)(b) [REDACTED] and he recognized her from an interaction they had after he left the scene. While PO Kashinsky was in transit back to the stationhouse with PO Mucharello and PO Sheppard, § 87(2)(b) [REDACTED] drove up next to their van and attempted to cut them off at high speed. PO Kashinsky did not recall exactly where this

happened, but he stated it was likely between West 21st and West 23rd Street. Eventually, the van pulled over and § 87(2)(b) asked PO Kashinsky for his name and shield number.

PO Kashinsky verbally provided his full name and his badge number. PO Kashinsky was in the backseat during this interaction, and he denied exiting the van to provide his name and shield number. PO Kashinsky did not recall whether § 87(2)(b) got out of her vehicle to speak with him. The back windows were not rolled down either, but PO Kashinsky stated that he may have opened the rear door to speak with § 87(2)(b). PO Kashinsky denied that he or his partners told § 87(2)(b) to get “back in her fucking car” or told her to “go the fuck home.” PO Kashinsky denied that he or his partners used any profanity towards § 87(2)(b) during this interaction.

At approximately 1:35 a.m., PO Kashinsky escorted § 87(2)(b) to Coney Island Hospital in an ambulance and remained with him until PO Lindner relieved him approximately four hours and fifteen minutes later. While he was at the hospital, § 87(2)(b) told PO Kashinsky that he just wanted to leave. PO Kashinsky did not recall whether § 87(2)(b) seemed intoxicated when he escorted him to the hospital. PO Kashinsky and PO Lindner overlapped at the hospital for no more than five minutes. During that time, PO Kashinsky did not observe PO Lindner approach § 87(2)(b)'s hospital bed and tighten his handcuffs, PO Kashinsky denied doing so himself. PO Kashinsky did not recall whether a detective from IAB showed up at the hospital while he was guarding § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### Summons/Arrest for Incident and Disposition

#### Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) has filed a notice of claim with the City of New York as of with regard to the incident as of September 12, 2014 (encl. 26A).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### Subject Officers' CCRB History



§ 87(2)(g)

§ 87(2)(g)

**Allegation B—Discourtesy: Sgt. Miguel Figueroa spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) and en route to PSA 1.**

**Allegation C—Discourtesy: PO Vincent Lindner spoke discourteously to § 87(2)(b) in front of § 87(2)(b)**

**Allegation D—Discourtesy: PO Joshua Konen spoke discourteously to § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b)**

§ 87(2)(g)

**Allegation E—Force: Sgt. Miguel Figueroa used physical force against § 87(2)(b) in front of § 87(2)(b)**

**Allegation F—Force: PO Vincent Lindner used physical force against § 87(2)(b) in front of § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(g)

**Allegation G—Force: PO Vincent Lindner tightly handcuffed § 87(2)(b) at § 87(2)(b) Hospital.**

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_

Title/Signature	Print	Date
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